

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LAWRENCE RUPPERT, et al.
Petitioners,

v.

Case No. 10-MC-10

TOWERS WATSON & CO.,
Respondent.

DECISION AND ORDER

This miscellaneous action concerns a subpoena that petitioners served on Towers Watson & Co. in connection with a lawsuit pending in the Western District of Wisconsin, Ruppert v. Alliant Energy Cash Balance Pension Plan, No. 08-cv-127 (W.D. Wis.). In that case, the court entered an order finding that the Alliant Plan had improperly calculated the plaintiff class's retirement benefits and held a trial regarding the calculation of plaintiffs' damages. While the Ruppert court had the damages issue under advisement, plaintiffs sought to enforce the Towers subpoena and obtain documents relevant to the proper interest rate to use in calculating such damages. Although the trial record on that issue had been closed, plaintiffs informed me that they intended to ask the court to supplement the record and consider the information obtained with the Towers subpoena.

On December 28, 2010, I entered an order compelling Towers to comply with the subpoena. However, on December 29, 2010, the Ruppert court issued an order regarding the damages issue and identifying the proper interest rate. Towers then filed a motion asking that I vacate the December 28 order on the ground that the documents are no longer relevant in light of the Ruppert court's decision, and that therefore the subpoena is moot. However, petitioners state that after receiving documents pursuant to the subpoena

they might, depending on what those documents show, ask the Ruppert court to reconsider its decision concerning the proper interest rate. Thus, although it might now be more difficult for petitioners to use the documents they receive pursuant to the subpoena in this action in the Ruppert litigation, the dispute between the parties in Ruppert remains live. Therefore, respondent's motion to vacate is **DENIED**.

Dated at Milwaukee, Wisconsin, this 12th day of January, 2011.

/s _____
LYNN ADELMAN
District Judge